

COUNTY OF YORK

MEMORANDUM

DATE: April 16, 2002 (BOS Mtg. 5/7/02)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-594-02, Dominion Virginia Power

ISSUE

Application No. UP-594-02 requests an amendment to Resolution No. R82-221(R-2), as amended by Resolution Nos. R92-191(R), R92-292, and R99-69(R), to authorize the use of Newsome Drive and the segment of Old York-Hampton Highway (Route 634) south of Newsome Drive for the transport of fly ash out of the Yorktown Power Station and ash disposal site. The property is further identified as Assessor's Parcel Nos. 24-204, 272A, 273, and 24-79-1.

DESCRIPTION

?? Property Owner: Dominion Virginia Power

?? Location: Adjacent to Old York-Hampton Highway (Route 634)

?? Area: Approximately 160 acres

?? Frontage: Approximately 2,800 feet on Old York-Hampton Highway

?? Utilities: Public water and sewer are available

?? Topography: Naturally flat; sloping mounds of stockpiled material

?? 2015 Land Use Map Designation: General Industrial

?? Zoning Classification: IG – General Industrial

?? Existing Development: Virginia Power fly ash deposition and storage site

?? Surrounding Development:

North: Undeveloped Dominion Virginia Power property; single-family homes on Hornsbyville Road beyond

East: Old York-Hampton Highway; Limited Industrial activities and several nonconforming single-family homes beyond

South: York County waste transfer station

West: Undeveloped industrial property

?? Proposed Development: Use of Newsome Drive and Old York-Hampton Highway south of Newsome Drive for the removal of stockpiled fly ash

BACKGROUND

The Dominion Virginia Power-Yorktown Power Station¹ began operation in 1957, burning coal and delayed petroleum-coke, or “pet-coke” (one of the waste byproducts of oil refining), until 1972 when a Consent Order was entered by the York County Circuit Court. This Order was the product of a series of criminal public nuisance proceedings brought against Dominion Virginia Power as a result of the offensive air pollution from the burning of coal and pet-coke. It precluded Dominion Virginia Power from using any fuel at the Yorktown station other than oil or gas. As dictated by the Consent Order, Dominion Virginia Power converted Units 1 and 2 to oil in 1974 and 1973, respectively. Also in 1974, a third oil-fired unit began operation.

Prompted by federal objectives for reducing the United States’ dependence on oil, Dominion Virginia Power applied for a Special Use Permit in 1982 to convert Units 1 and 2 back to coal. After multiple committee reviews and public hearings, the Board of Supervisors approved the application on January 20, 1983, with the adoption of Resolution No. 82-221(R-2), which contained 96 conditions addressing various aspects of the power production and waste elimination process. One of these conditions prohibited the use of any public road – other than road crossings – for the transport of fly ash.

Although fly ash has been a source of concern and anxiety for some County residents, the EPA has determined that fly ash is not a hazardous substance and encourages the reuse of this waste product for concrete mixing and other construction uses. Coal fly ash has become a valuable building material, particularly as an additive in cement mix. In 1992, Dominion Virginia Power submitted, and the Board of Supervisors approved, an application to amend the 1982 use permit to provide for the use of non-hermetically sealed trucks for the off-site transport of fly ash for marketing and recycling purposes. In so doing, the Board added a new condition permitting the use of primary and interstate highways and that portion of Hornsbyville Road between the Dominion Virginia Power haul road and Goodwin Neck Road for such transport. The use permit was amended again in 1999 to authorize and establish procedures for the temporary stockpiling of fly ash on the site and the removal of the temporarily stockpiled material as well as the material already deposited in what were initially envisioned as permanent disposal cells.

CONSIDERATIONS/CONCLUSIONS

1. The purpose of this application is to expand and clarify the range of permitted routes for the hauling of fly ash by truck. There are three proposed haul routes:

?? **Hornsbyville Road.** The 1992 amendment to the use permit added a new condition authorizing the use of Hornsbyville Road between the haul road and Goodwin Neck

¹ To avoid confusion, this memorandum will refer to the applicant exclusively by its current name, *Dominion Virginia Power*, although the company has also operated under the names *Virginia Power* and *VEPCO* since 1957.

Road for the removal of fly ash. This condition was inadvertently omitted as a result of the 1999 amendments when another new condition – with the same number – was added. It was neither the staff's intent in drafting the condition, nor the Board's intent in approving it, to remove Hornsbyville as a permitted haul route.

?? **Wolftrap Road.** In 1998 GAI Consultants prepared a study for Dominion Virginia Power that established a plan and procedures for removing the fly ash from the Yorktown Power Station's ash disposal facility and closing the site. This plan identified Wolftrap Road as the haul route for transporting the fly ash off-site. "Exiting the site onto Wolf Trap Road," the study stated, "may require entrance modifications."² Accordingly, when the use permit was amended in 1999, one of the amendments required that the entrance to the ash site at Wolftrap Road (Route 630) be upgraded to the satisfaction of the Virginia Department of Transportation (VDOT) and the County prior to the commencement of any removal activities. This requirement was clearly in anticipation of the use of Wolftrap Road for transporting fly ash, yet there was no amendment to the use permit specifically authorizing such use. That such was the intent, however, is confirmed by the fact that the 1999 staff report included a map showing Wolftrap Road as the proposed haul route. Under a strict, literal reading of this condition, however, one could construe it to forbid any removal of fly ash – even via routes other than Wolftrap Road – until Dominion Virginia Power upgrades the intersection of its haul road and Wolftrap Road. One could further construe it to mean that even after the intersection is upgraded, Wolftrap Road could not be used for removing fly ash since there is no specific authorization to do so. Clearly this was not the intent of the Board's action, and the applicant has proposed new language to address this unfortunate omission.

?? **Newsome Drive/Old York-Hampton Highway.** The applicant also desires to add Newsome Drive and Old York-Hampton Highway south of Newsome Drive as a permitted haul route. This was proposed in the GAI study as an alternative to the Wolftrap Road route, which, according to that study, involved "topographic and right-of-way constraints" that could make it impractical.³ The addition of this route is the only substantive change to the use permit being sought by Dominion Virginia Power in this application.

2. Newsome Drive is the entrance road into the York River Commerce Park and currently provides access to one industrial building, with a second currently under construction. It runs eastward from Old York-Hampton Highway, parallel to the railroad tracks, for a length of approximately 1,125 feet; the right-of-way extends for approximately another 300 feet to the Dominion Virginia Power property line. Dominion Virginia Power proposes to connect to Newsome Drive from its existing haul road at the ash disposal site. Since Newsome Drive has been designed and constructed for ultimate acceptance into the VDOT State secondary road system, staff has proposed a modification to the applicant's proposed amendment requiring VDOT review and approval of the intersection between the haul road and Newsome Drive.

² GAI Consultants, Operation Manual: Ash Structural Fill Facility Closure-Yorktown Power Station, York County, Virginia, May 1998, pp. 5.

³ Ibid., May 1998, pp. 5-6.

3. The York County Industrial Development Authority, which, in cooperation with Dominion Virginia Power, is marketing the York River Commerce Park, has been briefed on the proposed use of Newsome Drive and does not object. Likewise, the applicant also has briefed the Waterview Homeowners' Association and the Yorktown Power Station's Community Focus Team, neither of which has offered any objection to the proposal.
4. At the request of staff, the applicant has submitted a traffic impact analysis that evaluates the effect of the additional truck traffic on the intersection of Route 17 and Old York-Hampton Highway. The traffic study is based on a maximum of 400 trips per day (200 in-bound, 200 out-bound). The study concludes that the addition of this truck traffic will have a minimal effect on peak-hour delays at this intersection and no impact on Levels of Service.
5. The proposed Newsome Drive/Old York-Hampton Highway route will have very little impact on residential areas, less, in fact, than the previously approved Wolfrap Road/Goodwin Neck Road route, which passes four residential subdivisions and approximately 32 single-family detached homes. There are a few non-conforming homes along Old York-Hampton Highway; but these properties are actually zoned Limited Industrial (IL) and are designated for Limited Industrial use in the Comprehensive Plan. There is no residential zoning along the segment of Old York-Hampton Highway proposed as a fly ash removal route. While Old York-Hampton Highway does provide access to Victory Industrial Park (intersections with Freedom Boulevard and Redoubt Road), the additional truck traffic associated with this request will not be so great as to adversely impact the industrial park. No fly ash hauling trucks will be permitted on the Victory Industrial Park streets.
6. An elaborate system of procedures is in place, through both the original 96 use permit conditions and the 1998 GAI study, to ensure the safe treatment and removal of fly ash. As a result, the transport of fly ash in non-hermetically sealed trucks, first approved in 1992, has occurred for many years without incident.
7. Other conditions of the 1982 use permit, as amended in 1992 and 1999, will not be affected by the proposed amendments. These include both the 400-trips-per-day limitation and the requirement that Dominion Virginia Power post a bond with VDOT in the amount of \$25,000 to cover any road damages caused by the removal operation. In addition, in order to use Wolfrap Road, Dominion Virginia Power will still be required to upgrade the entrance from that road to the ash site – and any other entrance from a public road – before any removal activities can occur.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its regular meeting on March 13, 2002, at which three citizens spoke (two of them in opposition), voted (7:0) to recommend approval.

COUNTY ADMINISTRATOR RECOMMENDATION

The Board has already approved the use of Hornsbyville Road and (at least by implication) Wolftrap Road as haul routes for the removal of fly ash from the Yorktown Power Station. Rather than a policy change, the proposed language to reinstate these two haul routes is basically a re-affirmation of existing policy.

As for the proposed Newsome Drive/Old York-Hampton Highway route, I would like to address the concerns raised by the two citizens who spoke in opposition to this application at the Planning Commission public hearing. One concern was that the additional trucks would exacerbate congestion problems at the intersection of Route 17 and Old York-Hampton Highway. As noted earlier, however, the applicant's traffic impact analysis has demonstrated that this intersection is currently operating at a high Level of Service and will continue to do so even with the additional truck traffic. Another concern had to do with child safety since school bus stops are along this segment of Old York-Hampton Highway, as is St. Mark Lutheran Church, which plans to add a day school in the near future. It should be noted, however, that almost every road in the County has one or more school bus stops, including primary roads such as Route 17 where hauling of fly ash is permitted. To prohibit industrial traffic on any road that has a school bus stop would be to disallow trucks almost anywhere in the County except Interstate 64. Furthermore, the church in question is located in the midst of one industrial park, with a second industrial park approximately one-half mile away. Industrial traffic in this area will be significant whether or not this application is approved, and it will grow as the York River Commerce Park develops. Old York-Hampton Highway is a recently reconstructed road with wide shoulders and a speed limit of only 35 mph; it can safely accommodate both school bus traffic and truck traffic. Proper siting and fencing of outdoor recreational facilities on the part of the church should prevent any conflicts between the day school and nearby industrial development. Finally, a third citizen, speaking on behalf of Ryson International, which will occupy a new building now under construction at the end of Newsome Drive, expressed a desire that the applicant extend Newsome Drive all the way to the Ryson property line, including curb and gutter across the entire property. Whatever the merits of this request, I feel this is a separate matter unrelated to this application and should be resolved by the respective property owners and should not be included as a condition of approval.

In conclusion, I believe the proposed Newsome Drive/Old York-Hampton Highway route will have little or no impact on residential development or on congestion at the intersection of Old York-Hampton Highway and Route 17. Likewise, I do not believe the additional truck traffic will hinder access to and from Victory Industrial Park. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve this application, subject to the conditions contained in proposed Resolution No. R02-70.

Carter/3337

Attachments:

- ?? Excerpts from Planning Commission minutes dated March 13, 2002.
- ?? Zoning Map
- ?? Map of proposed haul route
- ?? Applicant's proposed language to amend Resolution No. R82-221(R)

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?? Letter to the York County Board of Supervisors from the Waterview Homeowners'
Association dated December 1, 2001

?? Proposed Resolution No. R02-70